

**GOVERNMENT OF TELANGANA
ABSTRACT**

POLICE – Representation of S/Sri Ch.Raghunandan Rao, S.Srinivasa Rao, G.Narender and Mohd.Sarwar, Inspectors of Police, Zone-V (Warangal zone), for counting of Out of Seniority given for outstanding work in Anti-Extremist field and assigning notional seniority w.e.f., 16.5.2003 from the date of initial appointment as Inspector of Police – Permission – Accorded – Orders – Issued.

HOME (SER-I) DEPARTMENT

G.O.RT.No. 264

Dated:30-9-2014

Read the following:-

- 1.From Sri Ch.Raghunandan Rao, Inspector of Police, Warangal Rural Dist. representation dated 19.7.2014
- 2.From Sri S.Srinivas Rao, Inspector of Police, Karimnagar Dist. representation dated 19.7.2014
- 3.From Sri G.Narender, Inspector of Police, Karimnagar District representation dated 19.7.2014
- 4.From Sri Mohd. Sarwar, Inspector of Police, Adilabad District representation dated 19.7.2014
- 5.From the Hon'ble APAT, Hyderabad, interim orders dated 17.7.2014 in O.A. No.4340/2014
- 6.From the Director General of Police, Telangana, Hyderabad Lr. Rc. No.374/E1/2014, dated:9.9.2014

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ORDER:

In the references 1st to 4th read above, S/Sri Ch.Raghunandan Rao, S.Srinivasa Rao, G.Narender, Mohd.Sarwar, Inspectors of Police of Zone-V, Warangal Zone, have requested for counting of their Out of Seniority w.e.f., 16.5.2003 for outstanding work in Anti-Extremist Field. They have also filed O.A. No.4340/2014 before the Hon'ble APAT. The Hon'ble Tribunal in its orders in the reference 5th read above, directed to accord applicants seniority as Inspector of Police in Zone-V as per their 'B' and 'A' lists issued by the 3rd respondent in Memos. vide C.No.E1/266/2013/R.O.No.679/2013, dt:27.7.2013, C.No.E1/152/2013/R.O. No.485/2013, dt:21.6.2013, C.No.E1/356/2013/ R.O.No.774/2013, dt:22.8.2013 and C.No.2367/A12-P6/2012-13/ D.O.No.2024/2013, dt: 29.6.2013 by the S.P., Adilabad by incorporating the same in G.O.Ms.No.54, Home Department, dt: 22.2.2014 and to consider their cases for further promotion as per eligibility and seniority.

2. The Director General of Police, Telangana, Hyderabad, is informed that the Government of Andhra Pradesh to boost the morale of the Police force, introduced a scheme of accelerated promotion for the police personals on account of their performance in extremist areas by amending the A.P. Police (Civil) Services Rules, 1998 and inserted Note-2 in Rule 3 and added a proviso to Rule 6 vide G.O.Ms.No.267, Home (Pol-E) Dept., dt: 26-11-2001. Accordingly certain guidelines were issued for such cases vide G.O.Ms.No. 280, Home dt: 17.9.2002. The Accelerated promotion Scheme and the action of the Government in insertion of Note-2 of Rule 3 and Proviso to Rule 6 by amending the A.P. Police (Civil) Service Rules issued vide G.O.Ms.No.267 were challenged by certain individuals by filing O.A.No.9461/2001. The Tribunal held and declared that Note-2 of Rule 3 of the Rules and proviso to Rule 6 of the Rules as arbitrary being violative of Articles 14 and 16 of the Constitution of India. Government filed appeal W.P.No.17139/2002 in High Court, High Court upheld the decision of the Tribunal vide order dt:4.10.2002. Government again filed SLP Nos. 7384-7388/2003 in Supreme Court, against the orders of High Court. The Supreme Court in its order dt: 21.3.2007, set aside the orders of the High Court and held that the Accelerated promotion Scheme introduced by the Government is valid. In the above back grounds the facts of the case of the present individuals are as follows,-

3. The present four individuals were also recommended for accelerated promotions during 2002-03 as per G.O.Ms.No.280, for their outstanding performance in Anti extremist field and their names were considered and recommended till the 8th stage stated above, and while things stood thus, and while their cases has to be placed before the Departmental committee stated at 9th stage, the Accelerated promotion Scheme itself was challenged and the action of the Government in

insertion of Note-2 of Rule 3 and Proviso to Rules 6 by amending the A.P. Police (Civil) Service Rules issued vide G.O.Ms.No.267 were challenged by certain individuals by filing O.A.No.9461/2001. The Tribunal held and declared that Note-2 of Rule 3 of the Rules and proviso to Rule 6 of the Rules as arbitrary being violative of Articles 14 and 16 of the Constitution of India. In the appeal W.P.No.17139/2002, filed by the Government, the High Court of A.P., also withhold the judgment of the Tribunal in O.A.No.9461/2001 vide its orders dt.4.10.2002. Against the Orders of the High Court, Government of A.P filed Civil Appeal Nos.7384-7388/2003 in the Supreme Court of India. While the validity of the Scheme of Accelerated promotions was under judicial scrutiny of the apex court, and the proposed accelerated promotion of the 4 individuals along with other who performed outstanding work in Anti extremist fields could not be considered under the accelerated promotion scheme, the D.G.P., A.P., promoted the present 4 individuals on out of seniority promotion for their outstanding work in anti extremist field on 16.5.2003 vide Proc.Rc.No.696/E2/2003-2, dated: 16.5.2003.

4. Some of the Police Officers filed O.A.No.3190/2003 challenging the above proceedings. The Tribunal in its interim orders suspended the above proceedings No. 696/E2/2003-2, dt: 16.5.2003. However, the D.G.P., did not issue any orders for their reversion and the 4 individuals allowed to continue as Inspectors. Meanwhile, the Supreme Court in Civil Appeal Nos.7384-7388/2003, granted ad-interim exparte stay of operation of the Judgment and order dated:12.7.2002 in O.A.No.126/2002 and batch of the A.P. Administrative Tribunal and also the impugned Final Judgment and order dated: 4.10.2002 of the High Court of A.P., passed in W.P.No.16809/2002 and batch till hearing and final disposal of the S.L.Ps. Accordingly the Departmental Committee for accelerated promotions met on 8th & 9th March 2006 and reviewed the state wide cases for accelerated promotion. Among the present 4 individuals, who were promoted as out of seniority Inspectors, the promotion of only two of them i.e Sri S.Srinivas Rao and G.Narender were considered as accelerated promotion vide Chief Office Proc.No. RC.No.215/Rewards-4/2k, dt.17.4. 2006., 23.5.2006 and 7.6.2006.

5. Meanwhile, a Contempt Case No.304/2006 was filed in O.A.No. 3190/2003, as such, the D.G.P., issued reversions orders in respect of Inspectors who continued as O.S Promotee Inspectors and did not get accelerated promotion in the Departmental Committee meeting held on 8th & 9th March, 2006. However, before implementing the said reversion orders one W.P.No.12150/2006 (filed by Sri Ch.Raghunandan Rao) and two O.As i.e O.A.No.3575/2006 (filed by Sri Ch.Raghunandan Rao) and O.A.No.3576/2006 (filed by Sri Md.Sarwar) were filed in the A.P.A.T., against the said suspension/reversion orders of the A.P.A.T.,

6. The W.P. No.12150/2006 filed by Sri Ch.Raghunandan Rao, challenging the interim orders of the A.P.A.T., in O.A.No.3190/2003, wherein the A.P.A.T., suspended the above proceedings No. 696/E2/2003-2, dated 16.5.2003. The High Court granted interim stay against the suspension orders of the A.P.A.T., in O.A.No.3190/2003 and subsequently passed final orders directing the A.P.A.T., to dispose off the O.A.No.3190/2003. Accordingly, the A.P.A.T., disposed the O.A.No.3190/2003, vide its order dated: 26-09-2007 and held as follows,-

"So, the above said proviso to Rule 5 enables the Director General and Inspector General of Police to promote the persons to higher post out of seniority on the basis of their outstanding performance. The Sub Inspector of Police come under A.P. Police Subordinate Service Rules. As already pointed out, the validity of similar provision in A.P. Police (Civil) Service Rules, 1998 was considered and upheld by the Hon'ble Supreme Court. So, the same principle is applicable to the facts on my hand. Under the above rule, the DG and IG of Police is authorized by effect promotions. Therefore, it cannot be said that the impugned Memo, dt.16.5.2003 is without jurisdiction or ultra virus to the provisions of the Constitution of India.

Therefore, this Tribunal uphold the validity of the impugned Memo. Dt.16.5.2003 and finds no merit in the application. So the application is dismissed. VMAs are allowed. Interim orders are vacated.

7. During the course of hearing of the O.A Nos.3575/2006 and 3576/2006, it is quite pertinent to note that, the D.G.P., in its proceedings No. 215/Rew.4/2000, dated: 13.12.2007 issued the following orders,-

"In view of the Supreme Court judgment dt.21.3.2007, the Hon'ble High Court was pleased to disposed of W.P.No.12150/2006 directing the APAT to dispose of the O.A.No.3190/2003 Accordingly the APAT has disposed of the said O.A. on 16.9.2007, upholding the validity of the out of Seniority promotions made vide this office Memo 5th to 7th cited.

In view of the above, this Office orders in Annexue-I in the proceedings 11th cited become infructious and liable to be withdrawn to enable Chief Office to take further course of action to give effect to the Departmental Committee recommendations, dt. 8.3.2006 and 9.3.2006. Hence Chief Office order issued in Annexure-I of 11th cited is hereby cancelled.

8. Accordingly in the two O.A, i.e O.A.No.3575/2006 (filed by Sri Ch.Raghunandan Rao) and O.A.No.3576/2006 (filed by Sri Md.Sarwar) which were filed in the A.P.A.T., against the said suspension/reversion orders of the A.P.A.T./DGP, the A.P.A.T., respectively held as follows,-

"In view of the withdrawal of the impugned memo, there is no necessity to grant the first relief i.e., to quash the same. The applicant shall be continued as Inspector of Police till a decision is taken under para 11 of the proceedings in Rc.No.215/Rew.4/2000 dt.13.12.2007. If the applicant aggrieved by any order, it does not prevent him to pursue his legal remedies."

9. However, after the outcome of the above W.Ps/O.As, no further action was taken by the authorities for regularisation of the O.S seniority of the above **4** individuals and no orders were issued as per the undertaking filed by the D.G.P., in O.A.No.3575/2006. As such, all the present 4 individuals filed four separate O.As. In all the said 4 O.A., the Tribunal issued more or less similar directions which are as follows,-

"In these circumstances, this O.A., is allowed. The respondents are directed to count the seniority of the applicant in the category of inspector of Police from the date he was promoted on out of seniority basis, with all consequential benefits, including promotion to the next higher category, as per ---- eligibility. Seniority etc., and pass appropriate orders within a period of four weeks from the date of receipt of this order."

10. Accordingly, orders were issued by the D.G.P., A.P. Hyderabad, duly regularising their services from the date of their O.S promotions i.e 16.5.2003 vide Proc.Nos.1892/E3/2010, dated:18.6.2013, 21.6.2013, 4.7.2013 and 8.6.2013 respectively, and in compliance with the regularisation orders, the D.I.G., Warangal Zone, placed them at appropriate places in the Zonal Seniority list of Warangal Zone vide Proc.No.E1/411/2013, dt: 21.1.2013 of DIG, Warangal Zone and communicated the same in the Zone. However, in the integrated Seniority List of the Inspectors issued vide G.O.Ms.No.54, Home Dated: 22.2.2014, the names of the present 4 individuals has not been shown in accordance with the seniority shown in the Proceedings of the D.I.G., issued vide Proc. No.E1/411/2013, dt: 21.1.2013.

11. Aggrieved by the above, the present 4 individuals filed O.A.No.4340/14 with a pray to accord the petitioners seniority as Inspector of Police in Zone -V as per their 'B' and 'A' lists issued by the D.I.G Warangal Range.

The A.P.A.T., issued the following orders,-Directed as follows,-

" The respondents are directed to accord applicants seniorty as Inspector of Police in Zone-V as per their 'B' and 'A' lists issued by the 3rd respondent by **incorporating the same in G.O.Ms.No.54**, Home Department, dt.22.2.2014 and to **consider their cases for further promotion** as per eligibility and seniority."

12. The D.G.P., Telangana, in his letter 6th read above, in para 2, himself admitted that the Department took a decision to regularise O.S Services from 2003 accordingly their services were regularised by DIG Warangal Range vide Proc.Nos.1892/E3/2010, dt:18.6.2013, 21.6.2013, 4.7.2013 and 8.6.2013 respectively. Further, the cases i.e SLP (Civil) No.6224/88 and SLPs 6944 to 6954/88, W.P.M.PNo.8725/13 in W.P.No.21820 and the cases mentioned by the DGP at para 3 and 4 of his above letter pertains to issue involving rule 23-B & 37 of the A.P. State and the issue of the OS promotion not related to accelerated promotion and Subordinate Service Rules which are not concerned with the present issue which involves rule 3, 6 and 5 of the A.P. Police (Civil) Services Rules, 1998 (i.e accelerated Promotions). In the concluding para of his letter, the DGP once again admitted that, the individuals enjoyed O.S Promotions keeping in view of their performance in anti extremist field.

13. In similar issue the Supreme Court in S.I.Paras Kumar Vs. S.I.Ram Charan (2004) 6 SCC 88) held as follows,-

“the question arose with regard to out of turn promotion on the performance of some of the Constables. Head Constables and Assistant Sub-Inspectors of Police in the anti-terrorist areas of Punjab though there was no such provision under the Rules. Their Lordships observed that though the rule does not permit such promotions out of turn for such activities, or for sports activities but in order to recognize the services rendered by such persons Government shall frame necessary rules for such kind of services rendered by the personnel in the anti-terrorist operation Therefore, this Court recognized that though the rule does not contemplate such promotion, the courage shown by the persons in anti-terrorist operations should be recognized by framing necessary rules.....”

14. In a similar issue the Constitutional Bench of the Supreme Court in the Direct Recruit Class-II Engineering Officers’ Association and others, Vs. State of Maharashtra and others (AIR 1990 SC 1607) observed as follows,-

“To sum up, we hold that:

- (A)
- (B) If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted.....

15. In another case on similar issue, the Division Bench of the Supreme Court of India, in N.S.K.Nayar & Others Vs. Union of India (AIR 1992 SC 1574), observed as follows,-

“The object of having Rule 27 (b) of the Rules is to provide a source of appointment to meet an administrative exigency of short tenure. It could never be the intention of the framers of the Rule to permit the appointments under the said Rule to go on for 10 to 15 years. The appointments for such a long period cannot be considered to be purely temporary/officiating or to hold charge. Taking work out of the petitioners in the STS posts for 10/15 years and denying them the right of regularisation and the consequent benefits in the said grade, is wholly arbitrary and is violative of Article 16 of the Constitution of India.....”

16. In view of the above observations of the Supreme Court of India, is that, if due to administrative exigencies, an individual is promoted to higher post for a short period, and due to various reasons and circumstances allowed to continued for long spell/period in the higher post, his officiating service may be taken into consideration and regularisation of his service should be done from the date of his first appointment in that post.

17. In the case on hand, the names of individuals were proposed for accelerated promotions for their outstanding performance in extremist field by following the

guidelines issued in G.O.Ms.No.280, dated:17.9.2002, and their names were cleared at all stages in accordance with the guidelines except the last stage of approval in the Departmental Committee for accelerated promotion for the reasons that, there was a stay on the accelerated promotion scheme, accordingly instead of terming their promotions as accelerated promotions their promotions were mentioned as Out of Seniority promotion, which were admittedly accepted by the department by giving a undertaking in the Tribunal.

18. The Apex court also while upholding the validity of the Accelerated promotions observed at various place in the judgment that, those persons who have faced the bullets and did the outstanding job to check the naxal menace then they form class in itself and in order to confer the benefit to such persons the scheme was conceived.....the rational basis to distinguish one class from the other class is sacrifice of people to accept the challenge of naxal menace..... As a matter of fact those who take risk in their life and prefer to face hazardous duties, such kind of persons forms a class and such class of persons stand differentiated from other class of persons who are not prepared to take risk in their life and want to continue with the normal police duties and seek their promotion in due course of time. It is true that the Inspectors of Police form one category but in the same category it can have two classes, one who is desirous of taking risk in their life and do service to the society by taking hazardous assignment as against other persons who want to continue with their usual police duties. Such Classification cannot be looked down as arbitrary or violative of Articles 14 & 16 of the Constitution of India.

19. In view of the facts and circumstances of the case and the observations of the Apex Court in the cases cited, the **seniority** of the individuals has to be **reckoned** from the date of their **initial promotion as Inspectors** i.e **16.5.2003** since the promotion of all the individuals are based on the outstanding performance in **anti extremis field** and deems to be accelerated promotion as they have qualified and passed through all the procedures provided in the guidelines for accelerated promotion except the condition of placing before the committee due to stay on G.O.Ms.No.280, Home dated: 17.9.2002.

20. The Government after careful consideration of the matter hereby **authorize** the Director General of Police, Telangana, Hyderabad, to assign the notional seniority in respect of S/Sri Ch.Raghunandan Rao, S.Srinivasa Rao, G.Narender and Mohd.Sarwar, **w.e.f., 16.5.2003** ie., from their initial date of promotion as Inspectors of Police.

21. The Director General of Police, Telangana, Hyderabad, is requested to take further necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

AJAY MISRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director General of Police, Telangana, Hyderabad

Copy to:-

The individuals **thro'** the D.G.P., Telangana, Hyderabad.

The Govt. Pleader for Home (S), Telangana, APAT, Hyderabad.

PS to Minister (Home)

SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER